

PLANNING COMMISSION MINUTES OF JUNE 27, 2005

2005-0418 – Billie Ballin (Applicant) **Raymond F. and Caroline Van Cleave** (Owner): Application for a Use Permit on a 6,785 square foot site to allow a large family day care to be located within 300 feet of an existing large family day care for up to 14 children. The property is located at **330 Jackson Avenue** in an R-0 (Low-Density Residential) Zoning District. (APN: 204-41-008) JM

(Note: since application was received, Billie and Ross Ballin are now the property owners.)

Jamie McLeod, Associate Planner, presented the staff report. Ms. McLeod said that a large family day care is defined as a day care center within a home for 8 to 14 children. The applicant had been operating a large family day care for 8 children at a different location and recently relocated to the current location. She currently operates a small family day care at her new location. No permit is required for a small family day care. There is an existing large family day care located on the block about four houses down. The applicant's proposal is for a day care of up to 14 children with hours of approximately 7 a.m. to 6 p.m. The Sunnyvale Municipal Code (SVC) prohibits the establishment of a large family day care within 300 ft. of another site of similar use without a Use Permit. The key issues on this project are: compatibility of use with the existing day care center, traffic, noise, and parking impacts. Staff received 28 responses from the community, 9 expressing opposition or reservations saying that the expanded use will exacerbate existing impacts from the large family day care that already exists on the street. The applicant provided 17 letters of support from clients and former neighbors expressing the minimal impact the former day care had on that street. The findings that the Commission may grant a waiver of the 300 ft. rule if they find that it is not detrimental to the property or improvements in the immediate vicinity. Staff is concerned that the cumulative effect of two large family day care centers being located within 180 ft. of each other may result in an undo burden on the neighbors. If the Commission makes the findings, staff has provided recommended Conditions of Approval (COA).

Chair Moylan opened the public hearing.

Billie Ballin, applicant, said she has had a small licensed daycare in Sunnyvale for 20 years. She recently moved to the new location to expand the day care. Some of the letters of concern were written prior to her moving in. She has been running her small family day care for several weeks now and hopes the neighbors have noticed that there have been no issues regarding parking as the parents that drop off and pick up their children park only in front of her house or in the driveway. Traffic is not an issue as the parents do not come at the same time or every day. Noise from the house would not be an issue because the children are not outside early in the day and there is more noise from surrounding activities (i.e. planes and construction) than generated by the

children. She has not noticed extra traffic or noise from the neighbor's existing day care. If any issues do occur, she is willing to work with neighbors. She feels that day care services are needed in Sunnyvale as she has received many calls for her day care services. Ms. Ballin said she would like to suggest if this is approved to have a review in three or four months to see if there are any issues with the neighbors with her running a large family day care.

Comm. Sulser asked the applicant if she was aware of the other day care before she moved to the new location. She said she was not aware that a large family day care could not be located within 300 ft. of another large family day care until after they had purchased the home.

Ken Johnson spoke in support of the day care permit. He said Ms. Ballin provides high quality service to their children and he has never seen more than two cars parked at her home.

Tammi Reeves-Messner spoke in support of day care permit. She said Ms. Ballin watches her daughter and does a phenomenal job and provides a great service. She has seen no problem with parking, traffic or noise.

Michelle Wexler spoke in support of the day care permit. She said Ms. Ballin and Ross (applicant's husband) watch her daughter and she has been thrilled to have this high-quality service in our City.

Derek Chin spoke in support of the day care permit. He said Ms. Ballin has provided great service for his child and prefers this over commercial day care services due to the attention she gives to the children. He said that parking has never been an issue.

Tina Baggott spoke in support of the day care permit. She is currently has one child with the applicant and hopes to get her other children with Ms. Ballin and Ross if the large family day care is approved. She said parking and noise have never been an issue.

Michelle Chin spoke in support of the day care permit. She said Ms. Ballin and Ross love kids and provide a great service to community and for working parents in Sunnyvale.

Martin Lynch spoke in support of the day care permit. He said the Ballins demonstrate great care for children and they are wonderful, professional people. He lived across the street from their old location and never noted traffic or noise problems related to the day care.

Caron Soenen spoke in support of the day care permit. She was a neighbor of the Ballins for 12 years and they watched her child. She said the children in their care are well behaved and treated well.

Oren Beske spoke in support of the day care permit. He said the quality of day care is not the issue. He is a parent who is hoping to place his child in Ms. Ballin's day care. He stated that expanding the day care will only result in one to two more cars.

Josie Yakmurian spoke against the day care permit. She said that as a neighbor she experiences the traffic from the other day care. She commented that if both day cares were allowed on the street, it could result in up to 28 cars coming and going to drop off and pick up the children. She said that street parking can sometimes be difficult.

Comm. Fussell and **Chair Moylan** asked Ms. Yakmurian if the parking was bad on her street and if it had gotten worse since Ms. Ballin's day care service started. Ms. Yakmurian said sometimes the parking is bad in the morning, but that she has not noticed an increase since Ms. Ballin began her day care. Ms. Yakmurian said she is more concerned about potential problems in the future if this is permitted.

Nancy Low spoke against the day care permit. She lives on Jackson Street and has several children. She is thrilled that she is getting wonderful neighbors, but said that is not the issue. She said Jackson is a short street and she is concerned about the potential of future problems if the permit is approved. The existing day care is also a great day care, but the potential of 28 cars got for the two child care center is a lot for this small street.

Comm. Simons asked Ms. Low if she would be okay with the permit being if a review were set up for a later date to determine if there are and impacts on the neighborhood. Ms. Low said if this is approved she would be okay with a review in one year.

Debra Doucette, next door neighbor to the Ballins, initially wrote a letter of objection to the large family day care permit. She said that Ms. Ballin has provided the neighbors with good information and she applauds her for going around and talking with neighbors. Ms. Doucette said they currently have not had problems with parking or noise from the day care. So she would like to rescind her original objection, and she would be okay with the permit being allowed if there could be a review in six months to a year.

Sara Dean said she lives on Jackson Street near the other day care. She is concerned about expanding another day care and said that it would not be the best thing to do as it would result in two large day care centers being located too close to each other. She bought a house on Jackson Street because it is a quiet neighborhood. She said if the Use Permit is approved, she would like to see it reviewed within six months to a year. Another concern she noted is that some neighbors work different shifts and may be affected by early morning noise.

Chair Moylan asked Ms. Dean if she had noticed any increase in traffic or parking problems with Ms. Ballin's recently established small day care. Ms. Dean said that she has not yet noticed an increase.

Billie Ballin expressed that she is willing to work with any of the neighbors on their concerns and assured them that the parents of the children she watches will not be parking anywhere except in front of her house. She also said her hours are 7:00 a.m. to 6:00 p.m.

Comm. Hungerford asked how many of the children she watches are brothers and sisters. Planning Officer Trudi Ryan noted the applicant said she cares for eight children, which results in a total of five cars per day. Comm. Hungerford suggested that it might be a condition to only allow a certain number of cars. Ms. Ballin said she is willing to work out whatever is necessary for the approval of the permit.

Chair Moylan closed the public hearing.

Comm. Babcock asked staff if the applicant is currently operating a small or large day care. Ms. McLeod said the applicant currently operates a small day care. Comm. Babcock asked if the City has ever limited the number of vehicles for similar permits. Ms. Ryan said it would be hard to control and monitor the number of vehicles. Comm. Babcock asked if the City had ever approved a project like this for a short time followed by a review. Ms. Ryan said it was considered at a previous meeting. Ms. Ryan noted that if the Commission approves the permit and later revokes it due to a determination of excessive impacts, the parents will need sufficient time to find alternate care for their children.

Comm. Fussell moved for Alternative 3 to approve the Use Permit with modified Conditions of Approval (COAs): addition of COA 1.F. to have the item return to the Planning Commission in six months to review the effect of the traffic impact in the neighborhood. Comm. Simons seconded. Comm. Simons offered a Friendly Amendment have the item come back to the Planning Commission for review in 12 months. Comm. Fussell accepted the Friendly Amendment. Comm. Simons also asked that a COA be added: if the Use Permit is denied up the 12 month review, that the parents be allowed sufficient time to find alternative child care. Ms. Ryan suggested that determination of such a time period be made at the 12 month review, rather than at this hearing, and that reference to such a condition could be included in COA 1.F.

Comm. Fussell said this was difficult decision and that the testimony of the character of applicant was moving. However, the responsibility of the Planning Commission is to look at the impact on the neighborhood. He said he thinks the 12 month review provides the opportunity for the Planning Commission to determine if there is an impact on the neighborhood.

Comm. Babcock agreed that this was a difficult decision. She said that the question is not whether if Ms. Ballin is a good day care provider, but whether this approval will impact the neighborhood. She said it could be tried on a temporary basis to see if it works. She noted her concern about the possibility of a change of business owner on the site in the future. She expressed mixed feelings with permitting two large day care centers on one small residential street.

Comm. Simons said he is supporting this motion, adding the clarification that it is not about the quality of the day care, but about the use of the site. He would not be supporting this if it were not on a trial basis. He encouraged the neighbors to communicate any problems to the applicant.

Comm. Hungerford asked staff if the Use Permit goes with the property or the provider. Ms. Ryan said a Use Permit goes with the property; however, the Commission may condition this approval to be specific to both the site and the provider, given that the provider is also needs to be additionally licensed by the State.

Comm. Hungerford asked for a Friendly Amendment for the addition of a condition stating that this permit to be for this provider only. The Friendly Amendment was accepted by the maker and the seconder. He commented that he was not initially in support of the motion, but with the input and modifications, he will now be supporting the motion.

Chair Moylan commented that this was an easy decision for him and he will be supporting the motion. He said there seems to be a grave shortage of family day care services in Sunnyvale. He believes the parking is not a problem and that he personally thinks the Code is too strict, but the issues must be reviewed based on the requirements of the Code.

Final Motion:

Comm. Fussell made a motion on Item 2005-0418 for Alternative 3 to approve the Use Permit with modified conditions: Add Condition of Approval (COA) 1.F. to review the effect of the impact of the day care center on the neighborhood in 12 months time at a Planning Commission public hearing; if the Use Permit is denied when reviewed, the patrons would be given a set amount of time to find a new day care provider; and addition of COA 1.G. for this Use Permit to apply only to this provider at this site.

Motion carried unanimously, 7-0.

Item is appealable to the City Council no later than July 12, 2005.